

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

### OFFICE OF THE COMMISSIONER

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1988 FEB 12

February 12, 1988

Honorable Ted Stevens  
United States Senate  
522 Hart Building  
Washington, D.C. 20510

Dear Senator Stevens:

We fully support the City of Petersburg in its attempts to clarify its ownership of a tideland parcel which you inquired about. We encourage you to do whatever you can to influence the federal government to remove the cloud over the title to this parcel. The Bureau of Land Management (BLM) needs to recognize that the tideland parcel has not been federally owned since Statehood and to clear its records of an obsolete executive order.

The state asserts that ownership of the tideland parcel at Petersburg passed to the state at Statehood. The state subsequently conveyed its interest to the City of Petersburg (see attached August 25, 1987 letter to BLM). Unfortunately, BLM does not agree and says that the 1.033 acre parcel described in Executive Order 6189 remains in federal ownership.

The U.S. Supreme Court's 1987 Utah Lake decision makes it clear that EO 6189 could not defeat the state's ownership of this submerged land. The Interior Department Solicitors Office in Washington has been slow in producing its opinion on how Utah Lake applies to many important submerged land issues and cases in Alaska where there were over 90 million acres of federal withdrawals at Statehood. Without this guidance from Washington, BLM-Alaska and the state remain at an impasse (perpetuating unnecessary litigation and blocking the resolution of land ownership) in cases like the Petersburg parcel. Many key staff in BLM-Alaska agree that Utah Lake affirms the state's position on ownership, but they are unable to act without clearance from Washington.

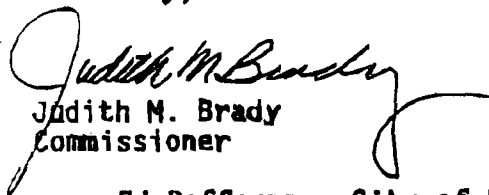
The state concedes that EO 6189 withdrew the use (but not the ownership) of the parcel for the benefit of the U.S. Forest Service. But the forest service has relinquished its interest and it should be a simple matter for BLM to now remove EO 6189 from the records since it is no longer of any effect. BLM-Alaska had made some progress on this. However, we understand that the BLM-Washington withdrawal section has brought the revocation of EO 6189 to a standstill over the issue of "federal improvements". The improvements are a former forest service warehouse and dock which were sold to a seafood company. The forest service sold the structures because it no longer needed them, because the seafood company needed the space to operate its adjacent cannery, and because the cost to the federal government to demolish the structures exceeded their appraised value. BLM-Washington apparently wants the parcel to be excessed through GSA because of the "federal improvements", ignoring the fact that the structures are no longer owned by the federal government.

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The state strongly disagrees with BLM's position that revoking the executive order would make the land "available for state selection." We feel it is not appropriate to "select" land which the state already owns and has conveyed to a local unit of government. In summary, the City of Petersburg already has title to the submerged tideland parcel and is therefore free to permit, lease, or otherwise manage it. The federal government needs to take simple action to clear the title.

I hope this information is useful. If you need anything else, please contact Ron Swanson (Resource Allocation Section, Anchorage) directly at 762-2666. Any assistance you can provide would be greatly appreciated. Not only is this particular parcel important for economic development in Southeast Alaska, but we also need to resolve numerous other submerged land ownership cases throughout the state.

Sincerely,

  
Judith M. Brady  
Commissioner

cc: Ed Pefferman, City of Petersburg  
Michael Penfold, Bureau of Land Management  
Michael Barton, U.S. Forest Service  
Mike Frank, Dept. of Law  
John Katz, Governors Office, Wash. D.C.  
Andy Pekovich, DNR, DLWM Southeast Office  
Steve Russell, Copeland, Landye, Bennett, and Wolf, Portland

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